

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Bikash Bhavan, Salt Lake, Kolkata – 700 091.**

**Present-**

**The Hon'ble Sayeed Ahmed Baba, Administrative Member.**

**Case No. –OA 561 of 2020**

**Sudipta Sen Choudhury. - Versus - The State of West Bengal & Others.**

Serial No. and Date of order	For the Applicant	: Mr. S. K. Das, Advocate.
<u>05</u> 20.06.2022.	For the State Respondents	: Mrs. S. Agarwal, Advocate.

In this application, Sudipta Sen Choudhury is the applicant, son of late Tapas @ Tapash Sen Choudhury, who died while in service on 12.02.2013, working as an Assistant Sub-Inspector, 3<sup>rd</sup> Battalion, Kolkata Armed Police. At the time of death, the applicant was a minor of 13 years. However, the mother of the applicant, Smt. Dipti Sen Choudhury, had submitted an application for the employment on 08.03.2013 within the time frame. The applicant when he reached majority also submitted an application for compassionate employment. The respondents after considering the application passed a reasoned order rejecting the application on the ground that the applicant was a minor at the time of his father's death. The relevant portion of the reasoned order is as below :-

*“It appears that the candidate was only 13 (thirteen) years 01 (one) 27 (twenty-seventy) days old on the date of death of the deceased employee. So the proposal does not fulfil the required conditions as laid down in the Notification No. 251-Emp dated 03.12.2013 read with Notification No. 26-Emp dated 01.03.2016 of Labour Department, Government of West Bengal for being eligible to be considered for appointment under exempted category.*

*Accordingly, the Government regrets its inability to approve this case for appointment under the exempted category in the light of the guideline contained in Notification No. 251-Emp dated 03.12.2013 of*

*Labour Department read with subsequent amendments.”*

In this application, the applicant prays for suitable direction to the respondents for setting aside the impugned order.

The learned advocate for the applicant contest that the very reason quoted by the respondents rejecting the application is notification dated 251-Emp dated 03.12.2013 read with another Notification no. 26-Emp dated 01.03.2016 of Labour Department. Learned advocate submits that the circulars of 2013 and 2016 are not applicable in this case, because the death of the deceased employee occurred before these Notifications came into effect. The notifications are dated 03.12.2013 and 01.03.2016, whereas the deceased employee died on 12.02.2013, before the notification came into effect.

Learned advocate for the State respondents submits that her reply will be submitted by the next date of hearing. Let Reply be filed within four weeks from the date of this order. Rejoinder, if any, by another two weeks thereafter.

Let the matter appear under the heading “Reply / Rejoinder and Objection” on 20<sup>th</sup> September, 2022.

(SAYEED AHMED BABA)  
MEMBER(A)

S.M.